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APPENDIX

FILED
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MICHAEL RODAK, JR., CLERK

Supreme Court of the United States

October Term, 1973

No. 73-1124

UNITED STATES OF AMERICA,

Respondent,

vs.

GEORGE I. NORMAN, JR.,

Petitioner.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI
FILED JANUARY 17, 1974

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Criminal No. 70-CR-58

UNITED STATES OF AMERICA,
Respondent,

v.

GEORGE I. NORMAN, JR.,
Petitioner.

ORDER

A Judgment and Commitment for the above-named defendant was entered by this Court on January 22, 1971. On appeal to the Tenth Circuit Court of Appeals the judgment was affirmed; defendant's petition for writ of certiorari to the United States Supreme Court was denied and on March 1, 1973, the Court of Appeals issued its mandate directing the defendant to surrender to the U. S. Marshal on March 12, 1973, to serve the sentence imposed. On March 1 defendant petitioned this Court for a writ of error coram nobis; a return was filed by the plaintiff on April 2, 1973, and a traverse was filed on behalf of the defendant on April 9. Although it is of no significance in the ultimate determination of the defendant's petition for the writ, it is here noted that the defendant did not fully comply with the mandate to surrender and since March 12, 1973, has been and presently is a fugitive.

On March 12, 1973, this defendant moved for a new trial based on the claim of 'newly discovered evidence.' That motion was heard by the Court on that date and was denied. It was based on the same grounds that are presently asserted in the petition before us.

Defendant bases his claim for the issuance of the writ on the contention that the evidence on trial and subsequent evidence show that the Rocky Mountain Bank sustained no loss as a result of the transactions complained of by the Government in its Indictment. He relies on *U.S. v. Docherty,* 468 F.2d 989 (2d Cir. 1972). As a supplement to his petition for certiorari defendant relied on *Docherty.* The petition for writ of certiorari was denied by the Supreme Court on February 26, 1973. In defendant's motion for new trial filed on March 12, 1973, in this Court he urged the Court to grant the new trial contending that *Docherty* was applicable to the instant case. We concluded that it was not, holding that it was distinguishable on its facts. The files in our case indicate that the defendant is appealing this Court's order denying the last motion for new trial.

We are of the opinion that the defendant is not entitled to an evidentiary hearing because he does not raise material issues of fact on claims of constitutional dimensions. *U.S. v. Carlino,* 400 F.2d 56 (2d Cir. 1968). *See also Owensby v. U.S.,* 353 F.2d 412 (10th Cir. 1965). No new issues are raised by the petition. It is

ORDERED that the petition for writ of error coram nobis be and the same hereby is denied and dismissed.

DATED at Denver, Colorado, this 27th day of June, 1973.

BY THE COURT:
ALFRED A. ARRAJ, Chief Judge
United States District Court

SEPTEMBER TERM - OCTOBER 4, 1973

Before Honorable David T. Lewis, Chief Judge, and Honorable Robert H. McWilliams, Circuit Judge.

No. 73-1628

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

GEORGE I. NORMAN, JR.,
Defendant-Appellant.

This matter comes on for consideration of a motion of the United States of America to dismiss the captioned appeal on the grounds that the Appellant George I. Norman, Jr. had failed to submit himself on March 12, 1973, to begin serving a lawfully imposed sentence and had fled the jurisdiction of the Court and remained a fugitive since that date.

Upon consideration whereof, the motion to dismiss the appeal is granted subject to the condition that if George I. Norman, Jr., within fifteen (15) days of the date of this Order, shall submit himself to the lawful process of this Court, his appeal may be reinstated. If George I. Norman, Jr. does not satisfy this condition,

the Clerk shall, on October 19, 1973, enter this Court's order dismissing the appeal with prejudice.

HOWARD K. PHILLIPS, Clerk

A true copy
Teste

Howard K. Phillips
Clerk, U. S. Court of
Appeals, Tenth Circuit

By
CHERI EBERHARDT
Deputy Clerk

SEPTEMBER TERM - OCTOBER 24, 1973
Before Honorable David T. Lewis, Chief Judge, and Honorable Robert H. McWilliams, Circuit Judge.

No. 73-1628

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

GEORGE I. NORMAN, JR.,
Defendant-Appellant.

The Court has for reconsideration its Order of October 4, 1973 in which it considered a motion to dismiss the appeal of George I. Norman, Jr. in the captioned case and conditionally granted the same unless on or before October 19, 1973, George I. Norman, Jr. submitted himself to the lawful process of this Court.

The Court finds that George I. Norman, Jr. has not, as of this date, satisfied the condition by submitting himself to the Court's process.

Upon consideration whereof, the motion of the United States to dismiss the captioned appeal, with prejudice, is granted.

The Clerk shall certify a copy of this Order to the United States District Court for the District of Colorado as and for the mandate of this Court.

HOWARD K. PHILLIPS, Clerk

A true copy
Teste

Howard K. Phillips
Clerk, U. S. Court of
Appeals, Tenth Circuit

By
ANNE CABOT
Deputy Clerk

Respectfully submitted,

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